IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.: 194 of 2004.

Decided on: 15.05 2007.

Power Grid Corporation of India and Others

… … … Petitioners.

Versus

Prem Lal and others.

… … … Respondents.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting?[1] *No.*

For the petitioners:	**Mr. Bimal Gupta, Advocate.**
For Respondent No.1:	**Mr. Romesh Verma, Advocate.**
For Respondent No.2:	**Mr. Sandeep Sharma, Asstt. Solicitor General of India.**
For Respondent No.3:	**Mr. M.S. Chandel, Advocate General with Mr. M.A. Khan and Ms. Meenakshi Sharma, Deputy Advocate Generals.**

Rajiv Sharma, Judge (Oral):

This petition is filed against award dated 10.12.2003 passed by the learned District Judge, Shimla in petition No.11-S/2 of 2000.

The brief facts necessary for adjudication of this petition are that the petitioner-Corporation has laid down Jhakri-Abdullapur

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Whether reporters of local papers may be allowed to see the judgment? No.

transmission line in the year 1997. During the course of laying of transmission line by the petitioner-Corporation 25 apple trees of the respondent No.1 standing on his land measuring 5-4 bighas comprised in Khata No.6 min, Khatauni No.7 min, Khasra No.44 had been damaged. The respondent was paid a sum of Rs.26,885/- by way of compensation for the loss caused to the apple trees.

The respondent feeling aggrieved by inadequacy of compensation filed petition under Section 16(3) of the Indian Telegraphs Act, 1885 read with Section 51 of Indian Electricity Act for grant of enhanced amount of damage caused to his property. The claim filed by the respondent was contested by the petitioner-Corporation. The learned District Judge has framed the following issues:-

1) Whether the compensation assessed and paid is inadequate, if so what is just and adequate compensation? …OPP.

2) Whether the petition is not maintainable as alleged? ……OPR 1 to 3.

3) Whether the petitioner has no cause of action? …… OPR 1 to 3.

4) Relief.

The findings recorded by the learned District Judge on the aforesaid issues are as under:-

Issue No.1. Yes.

Issue No.2. No.

Issue No.3. No.

Relief: The petitioner is awarded enhanced amount of compensation, as per operative portion of the award."

Mr. Bimal Gupta, learned counsel appearing on behalf of the petitioner-Corporation has strenuously argued that the learned District Judge has wrongly applied the principles laid down by Shri Harbans Singh called "Harbans Singh Formula" instead of evaluation to be done as per the guidelines prescribed by the Department of Horticulture, Himachal Pradesh, Shimla. This plea of Mr. Bimal Gupta is untenable. The petitioner-Corporation has not raised this plea before the learned District Judge. The learned District Judge has rightly applied the Harbans Singh Formula for assessing the damages caused to the apple bearing 25 trees while laying down the Jhakri-Abdullapur transmission line. The petitioner-Corporation has for the first time placed the copy of guidelines prepared by the Department of Horticulture before this Court instead of placing the same before the learned District Judge. The learned District Judge on the basis of the law laid down by this Court in **Union of India versus Khazana Ram and others, 1998 (1) Sim. L.C. 479** has rightly enhanced the compensation to five times of the amount which had been paid by the Corporation to the respondent by applying the price index of 1966. The finding recorded by the learned District Judge that the petition was maintainable need not be interferred by this Court.

Admittedly, the loss has been caused to the apple trees, for which the respondent was to be duly compensated. The District Judge has rightly applied the Harbans Singh Formula for

enhancing the compensation to five times by awarding a sum of Rs.1,07,540/- with interest @ 6% per annum. There is neither any jurisdictional error nor any procedural irregularity in the award dated 10th December, 2003.

Accordingly, this petition is dismissed with no order as to costs. The amount lying deposited in the Registry of this Court be released in favour of respondent No.1.

May 15, 2007 **(Rajiv Sharma)**
(sck). **Judge**